



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
LANSING



LIESL EICHLER CLARK
DIRECTOR

November 3, 2021

Ms. Jennifer Kanalos, Authorized Agent
Detroit Brownfield Redevelopment Authority
500 Griswold Street, Suite 2200
Detroit, Michigan 48226

Dear Ms. Kanalos and the Detroit Brownfield Redevelopment Authority:

SUBJECT: Act 381 Work Plan Review for Detroit Food Commons, 8324 Woodward Avenue
and Related Parcels, Detroit, Wayne County
Facility: 82006871 / Tracking: 2022-2478

The Michigan Department of Environment, Great Lakes, and Energy (EGLE), Remediation and Redevelopment Division, has reviewed the Act 381 Work Plan for the Detroit Food Commons project, submitted on October 14, 2021, for approval pursuant to the Brownfield Redevelopment Financing Act, 1996 Public Act 381, as amended (Act 381). The Act 381 Work Plan requests EGLE approval of due care compliance activities.

Based on the requirements in Section 15(2) of Act 381, and representations and information in your submittal, EGLE approves the work plan activities listed below and in the attached Table 1:

Due Care Compliance Activities:

- Excavation, transport, and disposal of contaminated soils
- Soil gas monitoring project management
- Soil gas monitoring lab
- Soil gas monitoring field work
- Soil gas monitoring report
- Soil gas monitoring supplies and equipment
- Documentation of due care compliance

If unanticipated response activities not listed above are encountered during the course of the project, and/or if the total approved costs will be exceeded, prior written EGLE approval is required for the use of school tax capture per section 13b(9) of Act 381 as amended.

The work plan also includes pre-development activities. Pre-development activities identified in Section 13b(8) of Act 381 can be performed prior to approval of the brownfield plan and are exempt from EGLE approval. The pre-development activities in this work plan include:

- Site investigation required to conduct a Baseline Environmental Assessment (BEA) and to evaluate compliance with Sections 20107a and 21304c of the Natural Resources and Environmental Protection Act, 1994 PA 451 (NREPA).
- Completing a BEA.

- Preparing a plan for compliance with Sections 20107a and 21304c of the NREPA.
- Performing pre-demolition and building hazardous materials surveys.

Section 13b(7)(b)(i) and (ii) allow for capture of taxes levied for school operating purposes to be used for the reasonable costs of developing and preparing brownfield plans, combined brownfield plans, or work plans for which tax increment revenues may be used under Section 13(4), including but not limited to, legal and consulting fees that are not in the ordinary course of acquiring and developing real estate, not to exceed \$30,000 and the reasonable costs of brownfield plan or work plan implementation, including but not limited to, tracking and reporting of data and plan compliance, not to exceed \$30,000.

The Brownfield Plan approved by the Detroit Brownfield Redevelopment Authority (Authority) includes reimbursement from school taxes for interest costs associated with department-specific activities as authorized by Section 13b(12)(b) of Act 381. Simple, non-compounding interest charged on department-approved activities may be reimbursed with state school taxes up to a maximum rate of five percent. Interest is approved, but the amount is not included in the approved eligible activity costs in Table 1, as the amount of interest reimbursed will depend on the actual costs incurred.

All other EGLE-eligible activities (due care and interest) may be reimbursed with taxes levied for school operating purposes only if undertaken *after* EGLE approval of the work plan. If eligible activities in addition to those approved in this work plan are necessary, and/or if the total approved costs will be exceeded, prior written EGLE approval is required.

The amount of tax capture is limited to *actual* expenditures with the exception of excess capture allowed for deposit into the local brownfield revolving fund in accordance with Section 8 of Act 381. The Authority must track and report the actual school tax increment revenues captured from the eligible property as required by Section 16(3) of Act 381, including both exempt and department-approved activities. In addition, it should be noted that excess tax capture for school operating purposes shall not exceed the total of the cost of eligible department specific activities approved in the work plan. The total excess tax capture shall not exceed the total of the cost of eligible activities in the brownfield plan.

Act 381 allows local units of government to reimburse costs for eligible brownfield redevelopment activities through tax increment financing. Tax increment revenues, including school taxes, cannot be captured for eligible activities funded with a Brownfield Redevelopment grant. Grants from other sources, such as U.S. Environmental Protection Agency brownfield grants, that are used for eligible activities may be reimbursed with local and state tax increment revenues if the granting agency approves and the Authority provides evidence that the funds are being deposited in the local brownfield revolving fund.

Approval of this work plan is only for the purpose of eligibility for tax capture and reimbursement under Act 381. This letter does not represent an EGLE determination of exemption to liability or compliance with due care under Part 201 or 213 of NREPA.

Actions taken pursuant to this work plan must comply with the requirements of all applicable or relevant and appropriate state and federal laws, rules, and regulations, including, but not limited to, Part 201, the Part 201 Rules, and Part 213 of NREPA, Michigan Air Pollution Control Rules, and laws relating to occupational safety and health. This approval does not preclude a person's obligation to obtain and comply with any permit or authorization required under state or federal laws.

Pursuant to Section 13b(14) of Act 381, for every year of school tax capture, fifty percent of the state education tax collected shall be remitted to the State Brownfield Redevelopment Fund.

Project related questions and copies of all environmental reports and findings should be directed to both of the following:

- Erik Gurshaw at 586-291-3418, or via e-mail at GurshawE@Michigan.gov.
- Dan Gough at 517-281-8253, or via e-mail at GoughD1@Michigan.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Carrie Geyer".

Carrie Geyer
Manager

Brownfield Assessment and Redevelopment Section
Remediation and Redevelopment Division
GeyerC1@Michigan.gov

cc: Mr. Rob Garza, Michigan Economic Development Corporation
Ms. Sam Seimer, AKT Peerless
Ms. Cora Capler, DEGC
Mr. Brian Vosburg, DEGC
Mr. Ryan Londrigan, EGLE
Mr. Paul Owens, EGLE
Ms. Beth Vens, EGLE
Mr. Dan Gough, EGLE
Mr. Erik Gurshaw, EGLE
Tracking code #2022-2478

Table 1
Act 381 Predevelopment and EGLE-Approved Activities
for the
Detroit Food Commons
Approval Date: November 3, 2021

Proposed Eligible Activity	Approved Cost
EGLE Approved Activities	
Due Care Activities: refer to the letter for a breakdown of activities	\$287,500
<i>Total EGLE Approved Eligible Activities</i>	\$287,500
Activities Exempt from EGLE Approval:	
Baseline Environmental Assessment (BEA)	\$7,000
Site Investigation Activities	\$21,450
Pre-demo, asbestos, lead, and mold surveys	\$5,160
Preparation of Due Care Compliance Plan	\$5,000
Brownfield Plan / Work Plan Preparation	\$14,000
Brownfield Plan / Work Plan Implementation	\$15,000
<i>Total Exempt Activities</i>	\$67,610
15% Contingency*	\$43,125
Total EGLE & Exempt Activities	\$398,235
School Tax Capture Amount 67.3700%	\$268,291
Local Tax Capture Amount 32.6300%	\$129,944

* Contingency is allowed up to a maximum of 15% of approved due care activities. Contingency may only be used to cover extra costs of those activities. Contingency shall not be used for activities not identified and approved in this work plan. Interest, insurance, activities exempt from EGLE approval, and any completed activities are not included in the contingency calculation.

If unanticipated response activities are encountered during the course of the project, prior written EGLE approval is required for the use of school tax capture per Section 13b(9) of Act 381 as amended.

The City of Detroit is using a Commercial Rehabilitation Tax Abatement (PA 210) as part of their local contribution to the project. The abatement has been estimated to provide a contribution of \$1,754,752.